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October 11, 2005

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St., SW
Washington, DC 20554

Re: Amendment of Parts 1, 21, 73, 74, and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands; WT Docket No. 03-66

Dear Ms. Dortch:

This letter is on behalf of the Wireless Broadband Service Providers Association ("WBSPA")¹ in support of the Commission's efforts to finalize new rules for the Broadband Radio Service ("BRS") and Educational Broadband Service ("EBS") bands, and to comment on certain proposals surrounding the development of a highly competitive wireless broadband services industry.

WBSPA fully supports the Commission's hard work and perseverance in creating a new framework in this docket for the use of 2.5GHz spectrum by competitive wireless broadband service providers to provide next generation wireless broadband services to the public. One continuing and major problem with respect to this rulemaking, however, has been the lack of focus in this rulemaking on the major deficiency of available spectrum resources for use by the many would-be competitive wireless broadband providers seeking use of these spectrum assets.² While there are a number of new entrants into the space and there is some very limited available usable spectrum right now to go around for use by these players, no one of them will likely be able to obtain enough spectrum to satisfy its requirements for adequate growth to become a viable competitor to one entrenched operator that exists in the band today. It is WBSPA's position that the

¹ WBSPA was formed to facilitate access to wireless broadband spectrum for use by new competitive wireless broadband services providers nationwide. WBSPA's mission is to assist competitive wireless broadband service providers with respect to access to usable spectrum and to educate its members about the regulatory processes surrounding the scarce radio spectrum assets required to provide new competitive wireless broadband services.

² In only the past 12-24 months, WBSPA has seen the emergence of several potentially significant competitors in the wireless broadband industry, including: Clearwire, NextWave Broadband, Renaissance Broadband, Rioplex Wireless, SpeedNet Services, and Unison Spectrum.

central reason for the lack of available spectrum in the 2.5GHz band is the fact that one stakeholder in this spectrum band, the recently merged Sprint Nextel (and its respective predecessors, assigns, subsidiaries), has been in control of the vast majority of spectrum in the band and has simply warehoused that spectrum for many, many years – which it is still doing today.

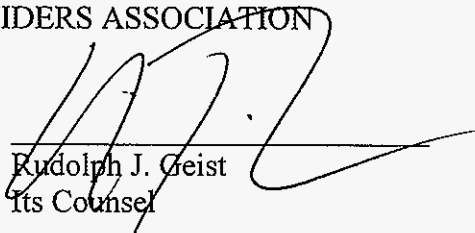
Considering the demand by competitors for usable spectrum in the 2.5GHz and other prime spectrum bands, the Commission should be mindful in finalizing these rules that any current BRS stakeholders in the 2.5GHz band, and especially those warehousing spectrum, should be required to adhere to very strict substantial service benchmarks, beginning 3 years after the effective date of the new rules³. This is the only way to guarantee this spectrum will be quickly put to the best and highest uses, and will not be warehoused by a single entrenched stakeholder. If any holder of spectrum licenses or leases in the 2.5GHz band fails to adhere to its substantial service build-out requirements, the spectrum should be reclaimed and auctioned for use by other entrants.

Therefore, WBSA respectfully request the Commission take these comments into consideration prior to finalizing any rules regarding build out requirements for new wireless broadband services utilizing the 2.5GHz band.

Respectfully submitted,

WIRELESS BROADBAND SERVICE
PROVIDERS ASSOCIATION

By:


Rudolph J. Geist
Its Counsel

³ The Commission should not require strict adherence by an EBS licensee to substantial service requirements until five years after the effective date of the new rules, so long as it can be demonstrated by an EBS licensee whose license is subject to renewal that it was unable to comply with substantial service requirements due to the failure of an airtime lessee to perform under a lease agreement.